IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 6055 of 2005

Between:

P.Omprakash, S/o.P.Harinadh Gupta,
R/o.14-352-C, Madendla Narappa Veedi,
Madanapalli Chittoor District.

..... PETITIONER

AND

The State of Andhra Pradesh,

represented by its Station House officer, I Town Police Station,
Madanapalli, Chittoor District.

..... RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in not registering the offence under section 378 and 380 IPC in respect of Crime NO.147 of 2004 of I Town police station Madanapalli as illegal and arbitrary and consequently direct the respondent to include sec.378 and 380 IPC in the FIR dt.08-05-04 relating to crime No.147 of 2004 of I Town police station Madanapalli, Chittoor District and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondent: G.P. FOR HOME

The Court at the stage of admission made the following

ORAL ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home, appearing on behalf of the respondent.

2. The petitioner is aggrieved by the action of the respondent in registering crime only under Section 406 of the Indian Penal Code (for short 'I.P.C.') in Crime No.147 of 2004 of I Town Police Station, Madanappali, Chittor District, on the basis of the report lodged by him, without registering the crime for the offences punishable under Sections 378 and 380 I.P.C. and investigating into the same from that angle also.

3. It appears that certain ornaments have been missing from the shop of the petitioner, might be because of theft or out of breach of trust committed by some body, or for some other reason. The most plausible reason could be theft committed by somebody as punishable under Sections 378 and 380 I.P.C. First Information Report had been lodged by the petitioner and crime was registered under Section 406 I.P.C. and undisputedly the investigation is going on in that direction only.

4. The learned counsel for the petitioner contends that when the offences could be committed through other modes or sources, the same can be brought under different provisions of the I.P.C. and crime has to be registered initially for such offences and investigation must be conducted in that behalf. It is contended, therefore, that the investigating agency shall not confine itself to the investigation of the offence allegedly committed under Section 406 I.P.C. alone.

5. I agree with the submission made by the learned counsel for the petitioner. When there is a possibility of a particular offence, being perpetrated through various methods and means which can be brought into the fold of different provisions of the I.P.C., crime should be registered under the relevant provisions of I.P.C. and

investigation should be conducted from all angles, particularly keeping in view of the doubts expressed by the complainant. During the course of investigation, if it is found that the loss of ornaments attracts some other provisions of the I.P.C., the accused shall be charge sheeted for such offences also.

6. Of course, at any stage, depending upon the offence and other aspects, the Magistrate or other appropriate Court can frame a different charge for a different offence than the one which was originally mentioned by the police. In other words, the Court can arrive at its own conclusions basing on the material and frame or mould the charge and try the case accordingly.

7. In the present case, that question does not, indeed, arise for the simple reason that the investigation is still in progress. What all required is that investigation into a crime must be conducted from all possible angles

8. In my considered view, basing on the apprehensions or reasons expressed by the petitioner, investigation should be conducted in different dimensions and angles by the police as required, without confining itself only to Section 406 I.P.C.

9. For the afore-mentioned reasons, the respondent is directed to conduct and complete the investigation not only from the angle of 406 I.P.C., but also from the angle of other provisions of I.P.C. depending upon the nature and possibilities of perpetration of the offence, without confining itself only to 406 I.P.C.

10. With the above observation and direction, the writ petition is disposed of, at the stage of admission. However, there shall be no order as to costs.

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D.S.R.VARMA, J

25TH MARCH 2005

ISN/KRK

ASSISTANT REGISTRAR

To

1. The Station House Officer, I Town Police Station,
Madanapalli, Chittoor District.

2. Two CCs to G.P. for Home, High Court Buildings, Hyderabad (OUT).

3. Two CD copies